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C O N F I D E N T I A L SECTION 01 OF 03 KATHMANDU 000584

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STATE FOR SA/INS
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TAGS: ECON NP WTO

SUBJECT: NEPAL: RATIFIES ITS MEMBERSHIP WITHIN WTO

Classified By: Deputy Chief of Mission Robert K. Boggs for reasons 1.5
(B, D)

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SUMMARY
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¶1. (SBU) On March 24, the Government of Nepal (GON) officially accepted and ratified its membership within the World Trade Organization and will become the 147th member of the organization as of April 23. Nepal is the first least developed country (LDC) to qualify and accede on its own merits without being grandfathered into the WTO. There was much domestic debate surrounding the modality the GON used for ratification. In the absence of a sitting Parliament, the Nepalese cabinet amended the Nepal Treaties Act of 1990 to shift ratification authority from the Parliament to the Cabinet. There are remaining hurdles to overcome prior the December 31, 2006 deadline, specifically in the area of intellectual property rights, sanitary and phyto-sanitary matters, customs and technical barriers to trade. A GON official indicated that the Government will need substantial donor assistance, including from the U.S., to meet its commitments. The official also asked that the USG review a draft Customs Act before its final release. END SUMMARY.

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Nepal Ratifies Its WTO Membership
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¶2. (U) The Government of Nepal (GON) officially accepted and ratified its membership within the World Trade Organization (WTO) on March 24. On April 23, Nepal will become the 147th member of the WTO and the first least developed country (LDC) to accede to the WTO on its own merits without being grandfathered into the organization.

¶3. (U) According to the Nepal Treaties Act of 1990, the authority to ratify trade agreements and treaties lies with the Parliament. (NOTE: King Gyanendra, on the recommendation of then-Prime Minister Sher Bahadur Deuba, dissolved Parliament in May 2002. End Note.) In the absence of Parliament, the Cabinet amended the Treaties Act by Cabinet-level ordinance to shift the ratification authority from the Parliament to the Cabinet. The King signed this ordinance on March 17, which opened the door to the GON ratifying Nepal's WTO membership seven days later, on March ¶24.

¶4. (SBU) There was much open debate on the modalities that the GON used to ratify Nepal's membership. Some commentators speculate that if the Cabinet can amend the Trade Treaties Act, the next step could be amendment of Nepal's Constitution. During a meeting with Emboff on 26 March, Prachanda Man Shrestha, Joint Secretary for Commerce, Industries and Supplies (and the GON official in charge of Nepal's WTO cell), said there were no other options available. Nepal agreed to the terms in September 2003, knowing the dilemma the lack of a sitting Parliament would pose. He added that the GON coordinated with stakeholders, including political party leaders, prior to ratifying the agreement (through meetings, seminars, informal conversations). Shrestha said that the ordinance amending the Nepal Trade Treaties Act of 1990, although it does not specifically mention the WTO, limits the Cabinet's authority to "multilateral international organizations" (and not regional or bilateral organizations/trade agreements, like SAARC or BIMSTEC). It also limits the validity of the ordinance until a general election date has been declared. Within seven days of Parliament's first session, all documents pertaining to Nepal's WTO membership must be presented by the GON.

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INTERNATIONAL ASSISTANCE TO MEET COMMITMENTS
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¶5. (SBU) Shrestha told Emboff that Nepal's successful membership and standing within the WTO requires not only the commitment of the GON, but also commitment from the international donor community. He explained that many

countries promised technical assistance during Nepal's accession negotiations, but that there has been "little follow through" by the international community.

16. (C) For example, the Government of Australia offered assistance in the area of intellectual property rights and in August 2003 funded an Australian consultancy group's review of Nepal's IPR needs. Following this visit, he indicated that the group submitted a report for GON comments and consideration. Since then, however, no further assistance has been forthcoming. Shrestha admitted that the delay did not necessarily translate into a lack of commitment and might actually be due to the Australian budget cycle.

17. (C) According to Shrestha, the Europeans' "empty promises are more troublesome." The GON requested EU assistance in the areas of Sanitary and Phyto-sanitary (SPS) and technical barriers to trade. Following the Cancun meeting, the Europeans made an ambitious "4 million Euro technical assistance program" commitment (2 million Euros for legislative review, GON capacity building; 2 million Euros for private sector development) that included a deadline of January 2004 for consultancy team review and March 2004 for implementation of the team's review. Shrestha stated that nothing has been done to date, and he mentioned that Foreign Minister Bekh Bahadur Thapa was told during his recent meetings in Europe that "there were political problems" with European assistance, "specifically with regard to how the GON handles the Maoists."

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REQUEST FOR USG ASSISTANCE
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18. (C) Emboff told Shrestha that the USG is committed to helping Nepal become a valuable member of the WTO and is now developing a technical assistance program in customs valuation, tailored specifically to meet Nepal's immense needs. (NOTE: A U.S. Customs Team visited Nepal in 2000. Additional Note: USAID recently secured approximately USD 500,000 funding to develop its initial assistance program. END NOTES.) Shrestha mentioned that the GON has drafted a revised "Customs Act," which the GON would like U.S. Customs to review before it is released. Emboff requested a copy of the draft Customs Act and will forward it to appropriate USG contacts once it is available. Shrestha also requested that U.S. Customs send a team of agents to Nepal to provide a quick "hands on" training seminar at Nepal's five main ports of entry (approximately 20 Nepalese customs agents at each port of entry). Shrestha indicated that Nepal has until July 2004 to meet its initial WTO customs deadline for having legislation in place.

19. (U) In addition to technical assistance, USTR-USAID, in coordination with the Embassy, will offer a training course to government officials and major exporters from South Asia's Least Developed Countries (LDC): Nepal, Afghanistan and Bangladesh. This training is tentatively scheduled for late May and will focus on how to meet U.S. regulations (in areas like customs, GSP, SPS, rules of origin, ISO and private sector grades and standards), how to attract foreign investment and how to compete in the global trading arena. Shrestha mentioned that this "hands on" training program will greatly assist Nepal and looked forward to participating in the program.

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COMMENT
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10. (C) Although many hurdles remain, the GON appears to be committed to meeting its WTO obligations as best it can. Nepalese interlocutors express a perception that the GON has abandoned by the donor community following the Cancun Round and that there is a lack of international commitment to helping Nepal to be a viable player within the WTO. USG willingness to assist Nepal provides an opportunity for us to reinforce our commitment to Nepal and to help strengthen this struggling economy.